

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

M&S ADVISORY GROUP, INC.,	:	
	:	Case No. C-1-02-522
Plaintiff,	:	
	:	Judge Spiegel
v.	:	Magistrate Judge Hogan
	:	
EYEMART EXPRESS, LTD.	:	<b><u>AFFIDAVIT OF JONATHAN</u></b>
	:	<b><u>HERSKOVITZ</u></b>
Defendant.	:	

I, JONATHAN HERSKOVITZ, being first duly cautioned and sworn, hereby state the following:

1. I am currently employed by EyeMart Express, Ltd. as a Senior Vice President.
2. In my capacity as a Senior Vice President for EyeMart Express, Ltd., on May 13, 2002, I participated in a telephone conversation with Martin Sherman of M&S Advisory Group, Inc. Frederick Grubb, also a Senior Vice President for EyeMart Express, Ltd., participated in this telephone conversation as well.
3. Portions of the May 13, 2002 telephone conversation referenced in paragraph 2 above were recorded. I have reviewed Exhibit 18 to my deposition which took place on June 12, 2003. This Exhibit is a transcript of the recording of the May 13, 2002 telephone conversation referenced above. I believe Exhibit 18 accurately reflects the May 13, 2002 conversation.

Further affiant saith naught.

  
Jonathan Herskovitz

Subscribed to and sworn before me this 7 day of April, 2004.

  
Notary Public

